

**REMARKS/ARGUMENTS**

Upon entry of this amendment, which previously amended claims 15-30, 32-41, cancelled claim 31; and previously added claims 43-49, claims 15-30 and 32-49 will be pending. In the Office Action, the Examiner rejected claims 15-30 and 32-49 under 35 USC §103(a) as being obvious over Logica's Integration and Automation of Work Management System Gives SaskEnergy Competitive Advantage," *Business Wire*, 15 September 1997, pp. 1-2 (hereinafter "Business Wire") in view of Wakiyama (U.S. Patent No. 5,806,069, hereinafter "Wakiyama") and in further view of Brown (U.S. Patent 5,923,552, hereinafter "Brown"). Applicant respectfully requests reconsideration of the claims in view of any amendments above and remarks below.

**Section 103 Rejections**

**Claim 15**

Claims 15-27 and 32-49 were rejected under 35 USC § 103(a) as being unpatentable over Business Wire in view of Wakiyama and further in view of Brown.

As per claim 15, Applicant respectfully submits that neither Business Wire, Wakiyama, nor Brown either alone or in combination, do not disclose or suggest every element of claim 15, as amended.

The Applicant argues respectfully that the Examiner has not met the burden of establishing a prima facie case of obviousness in accordance with current patent law.

There are several elements necessary to correctly conclude that a claim of obviousness has been established. One of the primary elements of establishing a prima facie case of obviousness is that the references generally place the needed subject matter supporting the obviousness rejection in the public domain before the date of invention (In re Zenitz, 333 F.2d 924, 142 USPQ 158, (C.C.P.A. 1964). In this regard, the Federal Circuit has stated that “the test for obviousness is not whether the features of one reference may be bodily incorporated into another reference . . . Rather, we look to see whether combined *teachings* render the claimed subject matter obvious;” (In re Wood, 599 F.2d 1032, 202 USPQ 171, 174 (C.C.P.A. 1979) (emphasis added)(citing In re Bozek, 416 F.2d 1385, 1390, 163 USPQ 545, 549-550 (C.C.P.A. 1969); In re Mapelsden, 329 F.2d 321, 322, 141 USPQ 30, 32 (C.C.P.A. 1964).

At the time of effective filing of the ‘991 application, construction materials and products were obtained by contractors and customers from local sources, whether the source was a local store or a nationwide chain, such as Home Depot or Lowe’s, to obtain the materials and products, the contractor needed to go to the store, select the items, stand in line at the cash register to pay for the items, load the items into a vehicle, and drive to the work site. Typically, these activities were undertaken in the morning prior to starting the workday. These activities are time-consuming and hamper the contractor’s efficiency. For example, it is time-consuming to search the aisles for particular items, some items may be out of stock, the lines at the cash register can be lengthy, and loading the vehicle and driving to the work site are time consuming if there are many large or heavy items and/or if the work site is a long distance from the store. Moreover, the contractor may forget to purchase an item that is necessary for the contractor to continue working during the day, resulting in a special trip to the store to purchase that item to continue the project.

As a method of ensuring that all of the necessary items are purchased, some contractors analyze the construction project and prepare detailed lists of items that must be purchased. For example, if the contractor is in the framing phase of a construction project, the contractor will

prepare a list of materials that are specific for that phase (e.g., nails, lumber, hammer, nail gun, saw blades) and use that list when procuring the items at the store. Nonetheless, even if the contractor uses the list, the contractor must still endure the time consuming activities described above. Neither the Wakiyama, Brown nor the Business Wire document disclose a method and system for allowing a contractor to remotely order and receive or have delivered construction materials to a job site for different phases of a construction project. Rather the Wakiyama et al and Business Wire document disclose and claim a process for controlling the ordering of parts within a company organization. The Brown patent discloses a front end ordering system with the means for controlling a fabrication schedules, data, and supply schedules in a large project environment where the developer has control over his material from the suppliers. A method for ordering products associated with a complexity of different phases with multiple products and manufacturers is not disclosed by either prior art reference.

Moreover, certain building materials were and are available in only certain parts of the country because they are specific to that area or don't function well in other area because of, for example, climate and building regulations. Examples of items that can be region specific include paint, roofing, wood shims, plumbing supplies, sump pumps, concrete, and heating and cooling supplies. As such, regional or local stores were more likely to have the region-specific materials. Building and construction materials are different from other types of materials that are ordered over the Internet in different parts of the country. Homes are built differently in New York than in Southern California, has different building codes to comply with, and therefore required different materials and different tools. Neither the Wakiyama patent and nor the Business Wire document disclose any method and system for allowing a contractor to remotely order and receive or have delivered construction materials to a job site for different phases of a construction project in different parts of the country. Both Wakiyama and the Business Wire control the production of a defined series of components that uses substantially the same tools and materials and results in the substantially the identical assembly whether manufactured in New York or in California.

Generally, the '991 application describes and claims a multi-step method for communicating material and supply data that can be, for example, implemented on a computer system and operated over the Internet employing wired or wireless technology either alone and in combination. Steps in the method include initiating a contractor/customer ordering computer program and selecting a recipient from a menu displayed by the ordering program. Steps also include selecting a construction phase from a menu displayed by the ordering program and entering a job identification number into the ordering program. The method also includes entering one or more material or product names and a specific quantity desired for each material or product into a construction phase categorization table that is displayed by the ordering program. The ordering program attaches an intended recipient specific part number and part name, stock keeping unit ("SKU"), universal product code ("UPC") or bar code for each material or product entered. Furthermore, the ordering program also generates a list displaying the intended recipient specific product number and product name, SKU number, UPC, or bar code and quantity for each individual product, and transfers that list to the intended recipient.

The present invention also functions as a shopping cart in that the ordering program displays the material and supply database as a list of the quantity or number of items, the product name, the vendor specific product number, the SKU number, UPC, and/or bar code on the computer's screen for the contractor's review. The contractor may edit the information to correct any errors in the data presented. Once the contractor or customer is satisfied that all the materials and supplies necessary for the particular construction project is listed, the user transfers the entered job identification information and parameters together with the list to the particular vendor. The downloaded information can be sent to a regional vendor warehouse specializing in processing the order for construction materials. The Wakiyama and Brown patent and the Business Wire document do not disclose any method or system for allowing a contractor to

remotely order and receive or have delivered construction materials to a job site for different phases of a construction project in different parts of the country.

Therefore, Business Wire in view of Wakiyama and in further view of Brown fail to provide any disclosure, teaching, or embodiment that anticipates the Applicant's present invention.

The Applicant respectfully concludes that the Examiner has not met the burden of establishing a prima facie case of obviousness in accordance with current patent law.

Another primary element of establishing a prima facie case of obviousness is that the references require some reason, suggestion, or motivation from the prior art as a whole for the person of ordinary skill to have combined or modified the references. With respect to the required element, the Federal Circuit has stated that "obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching suggestion or incentive supporting the combination."

With respect to this required element, the Federal Circuit has stated that "obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching suggestion or incentive supporting the combination." (See *In re Geiger*, 815 F.2d 686, 2 USPQ 2d 1276, 1278 (Fed. Cir. 1987). See also *Diversitech Corp. v. Centure Steps, Inc.*, 850 F.2d 675, 678-79, 7 USPQ 2d 1315, 1318 (Fed. Cir. 1988); *W.L. Gore & Assocs. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303, 311 (Fed. Cir. 1983):

In concluding that obviousness was established by the teachings in various pairs of references, the district court lost sight of the principle that there must have been something present in those teachings to suggest to one skilled in the art that the claimed invention before the court would have been obvious. (Citing *In re Bergel*, 292 F.2d 955, 956-57, 130 USPQ 206, 208 (C.C.P.A. 1961)), *cert. denied*, 469 U.S. 851 (1984).

The Patent Office applies this same standard as explained by the Board, "When the incentive to combine the teachings of the references is not readily apparent, it is the duty of the examiner to explain why combination of the reference teachings is proper..." Absent such reasons or incentives, the teachings of the references are not combinable." (*Ex parte Skinner*, 2 USPQ 2d 1788, 1790 (B.P.A.I. 1987).

In addition, the Manual of Patent Examining Procedure (Section 2143.01, page 2100-126) states "the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggest the desirability of the combination" (*In re Mills*, 916, F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990).

The Applicant respectfully asserts that there is no teaching or incentive motivation in the Wakiyama, Brown or the Business Wire document that supports the combining of the prior art references as required by current patent law.

It is therefore asserted by the Applicant the it would not have been obvious to a person of ordinary skill in the art at the time the invention was made to use the Wakiyama and Brown inventions and the Business Wire document to achieve the present invention.

Reconsideration is requested of the rejection of claims 15 as be patentable under 35 U.S.C. '103 in view of the disclosures of the Wakiyama, Brown and the Business Wire document. Wakiyama, Brown and the Business Wire documents fail to suggest those features of Applicants' invention and do not teach or provide incentive motivation that supports the combining of these prior art references, as discussed above. Appropriate withdrawal of this 103(a) rejection is therefore requested.

**Claim 16**

The Examiner stated that as per claim 16, Business Wire in view of Wakiyama shows the program of claim 15. (See the rejection of claim 15 supra). Business Wire (pp. 1-2) shows elements that suggest transferring the list and data pertaining to contractor/customer identification information elements and limitations of claim 16.

The Examiner stated that Business Wire lacks an explicit recitation of the transferring elements and limitations of claim 16. The Examiner states that Wakiyama (the ABSTRACT; FIG. 19; col. 9, II. 5 7-67; col. 10, II. 47-67; col. 16, 11. 32-67; col. 17, 11. 1-67; cot. 18, 11. 1-67; col. 22, 11. 7-67; col. 23, 11. 1-67; col. 24, II. 1-67; col. 27, 11. 45-67; cot. 28, 11. 35-67; and cot. 29, 11. 3-67) shows the elements that suggest the transferring elements and limitations of amended claim 16.

Applicant is incorporating the arguments made in reference to the lack of obviousness over Business Wire in light of Wakiyama and further in light of Brown as discussed above for Claim 15.

It is submitted that Wakiyama, Brown, and Business Wire fail to teach a combination of elements necessary to anticipate the Applicant's invention. Thus, the Applicants respectfully submit that claim 16 is patentably distinct over Wakiyama, Brown and the Business Wire document.

In addition, the Applicant respectfully asserts that there is no teaching or incentive motivation in the Wakiyama, Brown or the Business Wire document that supports the combining of the prior art references as required by current patent law.

It is therefore asserted by the Applicant that it would not have been obvious to a person of ordinary skill in the art at the time the invention was made to use the Wakiyama and Brown inventions and the Business Wire document to achieve the present invention.

Claim 16 is dependent on independent claim 15, and is patentable in light of the Applicant's assertion that claim 15 is patentably distinct.

Reconsideration is requested of the rejection of claims 16 as being patentable under 35 U.S.C. '103 in view of the disclosures of the Wakiyama, Brown and the Business Wire document. Wakiyama, Brown and the Business Wire documents fail to suggest those features of Applicants' invention and do not teach or provide incentive motivation that supports the combining of these prior art references, as discussed above. Appropriate withdrawal of this 103(a) rejection is therefore requested.

**Claims 17-27**

The Examiner stated that as per claim 17-27, Business Wire in view of Wakiyama and in further view of Brown shows the program of claim 15. (See the rejection of claim 15 supra).

The Examiner notes that Business Wire lacks an explicit recitation of the elements and limitations of claims 17-27.

The Examiner stated that "Official Notice" is taken that both the concepts and the advantages of the elements and limitations of claims 17-27 were well known and expected in the art by one of ordinary skill at the time of the invention because such concepts and advantages would have provided "a method of totally managing construction-related information and production-related information with improved efficiency. . . ." (see Wakiyama (col. 1 ll. 60-65)) and because such combination would have provided means "to both automate all traditional



'paper-based 'processes across a wide area client/server network, and to integrate centralized engineering and construction management functions with decentralized customer service delivery (see Business Wire (p. 11. 8-13)).

Applicant is incorporating the arguments made in reference to the lack of obviousness over Business Wire in light of Wakiyama and further in light of Brown as discussed above for Claim 15.

In regards to the Official Notice cited for claims 17-27, the Applicant requests that the Examiner provide evidence or references that support the Official Notice. Furthermore, the Applicant makes the following statements regarding claims 17-27.

Claim 17 claims a contractor/customer ordering computer program wherein the material or product number, SKU number, UPC, or bar code is specific to the identified vendor supplier part and when used in conjunction with the present invention claimed in claim 15 which discloses and claims a shopping cart that functions as an contractor's/customer's ordering program displaying category specific material and supply databases for a contractor's/customer's search, review, confirmation of availability, ordering and if desired, delivery to a particular site, was not well known in the art by one of ordinary skill at the time of the invention.

Claim 18 claims a contractor/customer ordering computer program wherein a plurality of potential suppliers are affiliated with separate and distinct companies and when used in conjunction with the present invention defined in claim 15 which discloses and claims a shopping cart that functions as a contractor's ordering program displaying category specific material and supply databases for the contractor's/customer's search, review, confirmation of availability, ordering and if desired, delivery to a particular site, was not well known in the art by one of ordinary skill at the time of the invention.

Claim 19 claims a contractor/customer ordering computer program wherein the data corresponding to the list and data pertaining to contractor/customer identification information is transferred electronically and when used in conjunction with the present invention of claim 15 which discloses and claims a shopping cart that functions as a contractor's/customer's ordering program displaying category specific material and supply databases for the contractor's/customer's search, review, confirmation of availability, ordering and if desired, delivery to a particular site, was not well known in the art by one of ordinary skill at the time of the invention.

Claim 20 claims a contractor/customer ordering computer program wherein the data corresponding to the list and the data pertaining to the contractor/customer identification information is transferred by facsimile transmission that when used in conjunction with the present invention defined in claim 15 which discloses and claims a shopping cart that functions as a contractor's/customer's ordering program displaying category specific material and supply databases for the contractor's/customer's search, review, confirmation of availability, ordering and if desired, delivery to a particular site, was not well known in the art by one of ordinary skill at the time of the invention.

Claim 21 claims a contractor/customer ordering computer program wherein the identified supplier comprises a national chain that when used in conjunction with the present invention defined in claim 15 which discloses and claims a shopping cart that functions as a contractor's/customer's ordering program displaying the category specific material and supply databases for the contractor's/customer's search, review, confirmation of availability, ordering and if desired, delivery to a particular site, was not well known in the art by one of ordinary skill at the time of the invention.

Claim 22 claims a contractor/customer ordering computer program wherein instructions for downloading a current list of costs for each specific material or product from the identified supplier that when used in conjunction with the present invention defined in claim 15 which

discloses and claims a shopping cart that functions as a contractor's/customer's ordering program displaying category specific material and supply databases for the contractor's/customer's search, review, confirmation of availability, ordering and if desired, delivery to a particular site, was not well known in the art by one of ordinary skill at the time of the invention.

Claim 23 claims a contractor/customer ordering computer program wherein instructions for returning a cost estimate from the identified supplier to the contractor/customer that when used in conjunction with the present invention defined in claim 15 which discloses and claims a shopping cart that functions as a contractor's/customer's ordering program displaying category specific material and supply for the contractor's/customer's search, review, confirmation of availability, ordering and if desired, delivery to a particular site, was not well known in the art by one of ordinary skill at the time of the invention.

Claim 24 claims a contractor/customer ordering computer program wherein instructions for requesting a date of delivery of the construction materials or products from the identified supplier that when used in conjunction with the present invention defined in claim 15 which discloses and claims a shopping cart that functions as a contractor's/customer's ordering program displaying category specific material and supply databases for the contractor's/customer's search, review, confirmation of availability, ordering and if desired, delivery to a particular site, was not well known in the art by one of ordinary skill at the time of the invention.

Claim 25 claims a contractor/customer ordering computer program wherein instructions for providing a confirmation from the identified supplier to the contractor/customer that when used in conjunction with the present invention defined in claim 15 which defines a shopping cart that functions as a contractor's/customer's ordering program displaying category specific material and supply databases for the contractor's/customer's search, review, confirmation of availability, ordering and if desired, delivery to a particular site, was not well known in the art by one of ordinary skill at the time of the invention.

Claim 26 claims a contractor/customer ordering computer program wherein the construction phases include at least one of a foundation, plumbing, framing, and roofing materials or products that when used in conjunction with the present invention defined in claim 15 which defines a shopping cart that functions as a contractor's/customer's ordering program displaying category specific material and supply databases for the contractor's/customer's search, review, confirmation of availability, ordering and if desired, delivery to a particular site, was not well known in the art by one of ordinary skill at the time of the invention.

Claim 27 claims a contractor/customer ordering computer program wherein the steps recited therein are performed consecutively that when used in conjunction with the present invention defined in claim 15 which defines a shopping cart that functions as a contractor's/customer's the ordering program displaying category specific material and supply for the contractor's/customer's search, review, confirmation of availability, ordering and if desired, delivery to a particular site, was not well known in the art by one of ordinary skill at the time of the invention.

It is submitted that Wakiyama, Brown, and Business Wire fail to teach a combination of elements necessary to anticipate the Applicant's invention. Thus, the Applicants respectfully submit that claims 17-27 are patentably distinct over Wakiyama, Brown and the Business Wire document.

In addition, the Applicant respectfully asserts that there is no teaching or incentive motivation in Wakiyama, Brown or the Business Wire document that supports the combining of the prior art references as required by current patent law.

It is therefore asserted by the Applicant that it would not have been obvious to a person of ordinary skill in the art at the time the invention was made to use the Wakiyama and Brown inventions and the Business Wire document to achieve the present invention.

Furthermore, claims 17-27 are dependent on independent claim 15, and are patentable in light of the Applicant's assertion that claim 15 is patentably distinct.

Reconsideration is requested of the rejection of claims 17-27 as patentable under 35 U.S.C. '103 in view of the disclosures of the Wakiyama, Brown and the Business Wire document. Wakiyama, Brown and the Business Wire documents fail to suggest those features of Applicants' invention and do not teach or provide incentive motivation that supports the combining of these prior art references, as discussed above. Appropriate withdrawal of this 103(a) rejection is therefore requested.

**Claim 28**

The Examiner stated that independent claim 28 is rejected for substantially the same reasons as claim 15.

Applicant is incorporating the arguments made in reference to the lack of obviousness over Business Wire in light of Wakiyama and further in light of Brown as discussed above for Claim 15.

It is submitted that Wakiyama, Brown, and Business Wire fail to teach a combination of elements necessary to anticipate the Applicant's invention. Thus, the Applicants respectfully submit that claim 28 is patentably distinct over Wakiyama, Brown and the Business Wire document.

In addition, the Applicant respectfully asserts that there is no teaching or incentive motivation in the Wakiyama, Brown or the Business Wire document that supports the combining of the prior art references as required by current patent law.

It is therefore asserted by the Applicant that it would not have been obvious to a person of ordinary skill in the art at the time the invention was made to use the Wakiyama and Brown inventions and the Business Wire document to achieve the present invention.

Reconsideration is requested of the rejection of claim 28 as patentable under 35 U.S.C. '103 in view of the disclosures of the Wakiyama, Brown and the Business Wire document. Wakiyama, Brown and the Business Wire documents fail to suggest those features of Applicants' invention and do not teach or provide incentive motivation that supports the combining of these prior art references, as discussed above. Appropriate withdrawal of this 103(a) rejection is therefore requested.

**Claims 29-30 and 32-40**

The Examiner also stated that dependent claims 29-30 and 32-40 are rejected for substantially the same reasons as claims 16-17 and 19-27 respectively.

Applicant is incorporating the arguments made in reference to the lack of obviousness over Business Wire in light of Wakiyama and further in light of Brown as discussed above for Claim 15.

It is submitted that Wakiyama, Brown, and Business Wire fail to teach a combination of elements necessary to anticipate the Applicant's invention. Thus, the Applicants respectfully submit that claims 29-30 and 32-40 are patentably distinct over Wakiyama, Brown and the Business Wire document.

In addition, the Applicant respectfully asserts that there is no teaching or incentive motivation in Wakiyama, Brown or the Business Wire document that supports the combining of the prior art references as required by current patent law.

It is therefore asserted by the Applicant that it would not have been obvious to a person of ordinary skill in the art at the time the invention was made to use the Wakiyama and Brown inventions and the Business Wire document to achieve the present invention.

Claims 29-30 and 32-40 are dependent on independent claim 28, are patentable in light of the Applicant's assertion that independent claims 15 and 28 are patentably distinct.

Reconsideration is requested of the rejection of claims 29-30 and 32-40 as patentable under 35 U.S.C. '103 in view of the disclosures of the Wakiyama, Brown and the Business Wire document. Wakiyama, Brown and the Business Wire documents fail to suggest those features of Applicants' invention and do not teach or provide incentive motivation that supports the combining of these prior art references, as discussed above. Appropriate withdrawal of this 103(a) rejection is therefore requested.

**Claim 41**

The Examiner contended that independent claim 41 is rejected for substantially the same reasons as claim 15.

Applicant is incorporating the arguments made in reference to the lack of obviousness over Business Wire in light of Wakiyama and further in light of Brown as discussed above for Claim 15.

It is submitted that Wakiyama, Brown, and Business Wire fail to teach a combination of elements necessary to anticipate the Applicant's invention. Thus, the Applicants respectfully submit that claim 41 is patentably distinct over Wakiyama, Brown and the Business Wire document.

In addition, the Applicant respectfully asserts that there is no teaching or incentive motivation in the Wakiyama, Brown or the Business Wire document that supports the combining of the prior art references as required by current patent law.

It is therefore asserted by the Applicant that it would not have been obvious to a person of ordinary skill in the art at the time the invention was made to use the Wakiyama and Brown inventions and the Business Wire document to achieve the present invention.

Reconsideration is requested of the rejection of claim 41 as patentable under 35 U.S.C. '103 in view of the disclosures of the Wakiyama, Brown and the Business Wire document. Wakiyama, Brown and the Business Wire documents fail to suggest those features of Applicants' invention and do not teach or provide incentive motivation that supports the combining of these prior art references, as discussed above. Appropriate withdrawal of this 103(a) rejection is therefore requested.

#### **Claim 42**

The Examiner contended that independent claim 42 is rejected for substantially the same reasons as claim 27.

Applicant is incorporating the arguments made in reference to the lack of obviousness over Business Wire in light of Wakiyama and further in light of Brown as discussed above for Claim 15.



It is submitted that Wakiyama, Brown, and Business Wire fail to teach a combination of elements necessary to anticipate the Applicant's invention. Thus, the Applicants respectfully submit that claim 42 is patentably distinct over Wakiyama, Brown and the Business Wire document.

In addition, the Applicant respectfully asserts that there is no teaching or incentive motivation in the Wakiyama, Brown or the Business Wire document that supports the combining of the prior art references as required by current patent law.

It is therefore asserted by the Applicant that it would not have been obvious to a person of ordinary skill in the art at the time the invention was made to use the Wakiyama and Brown inventions and the Business Wire document to achieve the present invention.

Furthermore, Claim 42 is dependent on independent claim 41, and is patentable in light of the Applicant's assertion that claim 41 is patentably distinct.

Reconsideration is requested of the rejection of claim 42 as patentable under 35 U.S.C. '103 in view of the disclosures of the Wakiyama, Brown and the Business Wire document. Wakiyama, Brown and the Business Wire documents fail to suggest those features of Applicants' invention and do not teach or provide incentive motivation that supports the combining of these prior art references, as discussed above. Appropriate withdrawal of this 103(a) rejection is therefore requested.

#### Claim 43

The Examiner concluded that Business Wire lacked an explicit recitation of "A method for ordering of a construction supplies by a customer . . . providing the customer with a phase list

comprising reference to each of a plurality of construction phases . . .receiving a customer selection of a construction phase from the phase list . . .

Applicant is incorporating the arguments made in reference to the lack of obviousness over Business Wire in light of Wakiyama and further in light of Brown as discussed above for Claim 15.

It is submitted that Wakiyama, Brown, and Business Wire fail to teach a combination of elements necessary to anticipate the Applicant's invention. Thus, the Applicants respectfully submit that claim 43 is patentably distinct over Wakiyama, Brown and the Business Wire document.

In addition, the Applicant respectfully asserts that there is no teaching or incentive motivation in the Wakiyama, Brown or the Business Wire document that supports the combining of the prior art references as required by current patent law.

It is therefore asserted by the Applicant that it would not have been obvious to a person of ordinary skill in the art at the time the invention was made to use the Wakiyama and Brown inventions and the Business Wire document to achieve the present invention.

Reconsideration is requested of the rejection of claim 43 as patentable under 35 U.S.C. '103 in view of the disclosures of the Wakiyama, Brown and the Business Wire document. Wakiyama, Brown and the Business Wire documents fail to suggest those features of Applicants' invention and do not teach or provide incentive motivation that supports the combining of these prior art references, as discussed above. Appropriate withdrawal of this 103(a) rejection is therefore requested.

**Claim 44**

The Examiner concluded that the Business Wire document lacked an explicit recitation of “wherein the phase list comprises at least one phase associated with construction a building.”

Applicant is incorporating the arguments made in reference to the lack of obviousness over Business Wire in light of Wakiyama and further in light of Brown as discussed above for Claim 15.

It is submitted that Brown and Business Wire fail to teach a combination of elements necessary to anticipate the Applicant’s invention. Thus, the Applicants respectfully submit that claim 44 is patentably distinct over Brown and the Business Wire document.

In addition, the Applicant respectfully asserts that there is no teaching or incentive motivation in the Brown or the Business Wire document that supports the combining of the prior art references as required by current patent law.

It is therefore asserted by the Applicant the it would not have been obvious to a person of ordinary skill in the art at the time the invention was made to use the Brown invention and the Business Wire document to achieve the present invention.

Furthermore, Claim 44 is dependent on independent claim 43, and is patentable in light of the Applicant’s assertion that claim 43 is patentably distinct.

Reconsideration is requested of the rejection of claim 44 as patentable under 35 U.S.C. '103 in view of the disclosures of the Brown and the Business Wire document. Brown and the Business Wire documents fail to suggest those features of Applicants' invention and do not teach

or provide incentive motivation that supports the combining of these prior art references, as discussed above. Appropriate withdrawal of this 103(a) rejection is therefore requested.

**Claim 45**

The Examiner concluded that Business Wire lacked an explicit recitation of “ wherein the phase is selected from at least one of a wiring phase; a plumbing phase, a flooring phase, a kitchen and bath phase; a lighting phase, a foundation phase, a siding phase, a heating and cooling phase, and a window and doors phase.”

Applicant is incorporating the arguments made in reference to the lack of obviousness over Business Wire in light of Wakiyama and further in light of Brown as discussed above for Claim 15.

It is submitted that Wakiyama, Brown, and Business Wire fail to teach a combination of elements necessary to anticipate the Applicant’s invention. Thus, the Applicants respectfully submit that claim 45 is patentably distinct over Wakiyama, Brown and the Business Wire document.

In addition, the Applicant respectfully asserts that there is no teaching or incentive motivation in the Wakiyama, Brown or the Business Wire document that supports the combining of the prior art references as required by current patent law.

It is therefore asserted by the Applicant the it would not have been obvious to a person of ordinary skill in the art at the time the invention was made to use the Wakiyama and Brown inventions and the Business Wire document to achieve the present invention.

Furthermore, Claim 45 is dependent on independent claim 43, and is patentable in light of the Applicant's assertion that claim 43 is patentably distinct.

Reconsideration is requested of the rejection of claim 45 as patentable under 35 U.S.C. '103 in view of the disclosures of the Wakiyama, Brown and the Business Wire document. Wakiyama, Brown and the Business Wire documents fail to suggest those features of Applicants' invention and do not teach or provide incentive motivation that supports the combining of these prior art references, as discussed above. Appropriate withdrawal of this 103(a) rejection is therefore requested.

**Claim 46**

The Examiner concluded that Business Wire lacked an explicit recitation of "providing the customer with a supplier list and allowing the customer to select a supplier from the supplier list."

Applicant is incorporating the arguments made in reference to the lack of obviousness over Business Wire in light of Wakiyama and further in light of Brown as discussed above for Claim 15.

It is submitted that Brown, and Business Wire fail to teach a combination of elements necessary to anticipate the Applicant's invention. Thus, the Applicants respectfully submit that claim 46 is patentably distinct over Brown and the Business Wire document.

In addition, the Applicant respectfully asserts that there is no teaching or incentive motivation in the Brown or the Business Wire document that supports the combining of the prior art references as required by current patent law.

It is therefore asserted by the Applicant that it would not have been obvious to a person of ordinary skill in the art at the time the invention was made to use the Brown invention and the Business Wire document to achieve the present invention.

Furthermore, Claim 46 is dependent on independent claim 43, and is patentable in light of the Applicant's assertion that claim 43 is patentably distinct.

Reconsideration is requested of the rejection of claim 46 as patentable under 35 U.S.C. '103 in view of the disclosures of the Brown and the Business Wire document. Brown and the Business Wire documents fail to suggest those features of Applicants' invention and do not teach or provide incentive motivation that supports the combining of these prior art references, as discussed above. Appropriate withdrawal of this 103(a) rejection is therefore requested.

#### **Claim 47**

The Examiner concluded that Business Wire lacked an explicit recitation of "wherein the supply list includes construction materials."

Applicant is incorporating the arguments made in reference to the lack of obviousness over Business Wire in light of Wakiyama and further in light of Brown as discussed above for Claim 15.

It is submitted that Wakiyama, Brown, and Business Wire fail to teach a combination of elements necessary to anticipate the Applicant's invention. Thus, the Applicants respectfully submit that claim 47 is patentably distinct over Wakiyama, Brown and the Business Wire document.

In addition, the Applicant respectfully asserts that there is no teaching or incentive motivation in the Wakiyama, Brown or the Business Wire document that supports the combining of the prior art references as required by current patent law.

It is therefore asserted by the Applicant that it would not have been obvious to a person of ordinary skill in the art at the time the invention was made to use the Wakiyama and Brown inventions and the Business Wire document to achieve the present invention.

Furthermore, Claim 47 is dependent on independent claim 43, and is patentable in light of the Applicant's assertion that claim 43 is patentably distinct.

Reconsideration is requested of the rejection of claim 47 as patentable under 35 U.S.C. '103 in view of the disclosures of the Wakiyama, Brown and the Business Wire document. Wakiyama, Brown and the Business Wire documents fail to suggest those features of Applicants' invention and do not teach or provide incentive motivation that supports the combining of these prior art references, as discussed above. Appropriate withdrawal of this 103(a) rejection is therefore requested.

**Claim 48**

The Examiner concluded that Business Wire lacked an explicit recitation of "wherein the supply list includes tools."

Applicant is incorporating the arguments made in reference to the lack of obviousness over Business Wire in light of Wakiyama and further in light of Brown as discussed above for Claim 15.

It is submitted that Wakiyama, Brown, and Business Wire fail to teach a combination of elements necessary to anticipate the Applicant's invention. Thus, the Applicants respectfully submit that claim 48 is patentably distinct over Wakiyama, Brown and the Business Wire document.

In addition, the Applicant respectfully asserts that there is no teaching or incentive motivation in the Wakiyama, Brown or the Business Wire document that supports the combining of the prior art references as required by current patent law.

It is therefore asserted by the Applicant that it would not have been obvious to a person of ordinary skill in the art at the time the invention was made to use the Wakiyama and Brown inventions and the Business Wire document to achieve the present invention.

Furthermore, Claim 48 is dependent on independent claim 43, and is patentable in light of the Applicant's assertion that claim 43 is patentably distinct.

Reconsideration is requested of the rejection of claim 48 as patentable under 35 U.S.C. '103 in view of the disclosures of the Wakiyama, Brown and the Business Wire document. Wakiyama, Brown and the Business Wire documents fail to suggest those features of Applicants' invention and do not teach or provide incentive motivation that supports the combining of these prior art references, as discussed above. Appropriate withdrawal of this 103(a) rejection is therefore requested.

#### **Claim 49**

The Examiner concluded that Business Wire lacked an explicit recitation of "wherein the listing includes for each supply section, a part name and at least one of a merchant specific part number, a SKU, a universal part product code, and a bar code."



Applicant is incorporating the arguments made in reference to the lack of obviousness over Business Wire in light of Wakiyama and further in light of Brown as discussed above for Claim 15.

It is submitted that Wakiyama, Brown, and Business Wire fail to teach a combination of elements necessary to anticipate the Applicant's invention. Thus, the Applicants respectfully submit that claim 49 is patentably distinct over Wakiyama, Brown and the Business Wire document.

In addition, the Applicant respectfully asserts that there is no teaching or incentive motivation in the Wakiyama, Brown or the Business Wire document that supports the combining of the prior art references as required by current patent law.

It is therefore asserted by the Applicant that it would not have been obvious to a person of ordinary skill in the art at the time the invention was made to use the Wakiyama and Brown inventions and the Business Wire document to achieve the present invention.

Furthermore, Claim 49 is dependent on independent claim 43, and is patentable in light of the Applicant's assertion that claim 43 is patentably distinct.

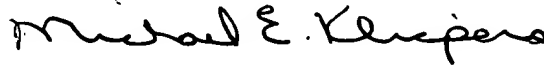
Reconsideration is requested of the rejection of claim 49 as patentable under 35 U.S.C. '103 in view of the disclosures of the Wakiyama, Brown and the Business Wire document. Wakiyama, Brown and the Business Wire documents fail to suggest those features of Applicants' invention and do not teach or provide incentive motivation that supports the combining of these prior art references, as discussed above. Appropriate withdrawal of this 103(a) rejection is therefore requested.

CONCLUSION

In conclusion, Applicants respectfully assert that claims 15-30 and 32-49 are patentable for the reasons set forth above and that the application is now in condition for allowance. Accordingly, an early notice of allowance is respectfully requested. The Examiner is requested to call the undersigned at (619) 980-8680 for any reason that would advance the instant application to issue.

Dated this 27th day of December, 2003.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael E. Klicpera". The signature is fluid and cursive, with the first name "Michael" and last name "Klicpera" being clearly legible.

Michael E. Klicpera  
Attorney for Applicant  
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